

\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

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**Document Number: 2010-10035556**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On:** December 28, 2010  
**Recorded At:** 12:59:36 pm  
**Number of Pages:** 10  
**Book-VI/Pg:** Bk-OPR VI-4037 Pg-268  
**Recording Fee:** \$48.00

**Parties:**

**Direct- LINCOLN PO RED OAK VILLAGE LP**  
**Indirect- COLE MT SAN MARCOS TX LLC**

**Receipt Number:** 262496  
**Processed By:** Samantha Breland

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\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

THE STATE OF TEXAS                   §  
  §       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF HAYS                   §

THAT LINCOLN PO RED OAK VILLAGE, L.P., a Delaware limited partnership ("Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by COLE MT SAN MARCOS TX, LLC, a Delaware limited liability company ("Grantee"), whose mailing address is 2555 East Camelback Road, Suite 400, Phoenix, Arizona 85016, the receipt and sufficiency of which consideration are hereby acknowledged, and upon and subject to the provisions hereinafter set forth and described, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all of the real property situated in Hays County, Texas, described on Exhibit A attached hereto and made a part hereof for all purposes, together with all and singular all of Grantor's right, title and interest in and to the rights, benefits, privileges, easements, tenements, hereditaments, rents, issues and profits, reversions, remainders and appurtenances thereon or in anywise appertaining thereto, and all right, title and interest of Grantor in and to all improvements and fixtures located on said real property, and any right, title and interest of Grantor in and to adjacent streets, alleys, rights-of-way and strips and gores (said land, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances, improvements, fixtures and interests being hereinafter referred to as the "Property").

This conveyance is made subject to those encumbrances and exceptions set forth on Exhibit B attached hereto and made a part hereof for all purposes (collectively, the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, as aforesaid, unto Grantee, its successors and assigns, forever; and Grantor does hereby covenant with Grantee that, subject only to the Permitted Exceptions, Grantor will warrant and forever defend all and singular the Property unto Grantee, its successors and assigns, against the lawful claims and demands of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, this Special Warranty Deed has been executed by Grantor to  
be effective as of the 21 day of December, 2010.

LINCOLN PO RED OAK VILLAGE, L.P.,  
a Delaware limited partnership

By: Lincoln/MFIL Red Oak, Ltd.,  
a Texas limited partnership,  
general partner

By: Lincoln GP Red Oak, Inc.,  
a Texas corporation,  
general partner

By: [Signature]  
Name: Robert Dwyer  
Title: Executive Vice President

THE STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on this 21<sup>st</sup> day of December, 2010, by  
Robert Dwyer, Executive Vice President of Lincoln GP Red Oak, Inc., a Texas  
corporation, general partner of Lincoln/MFIL Red Oak,  
Ltd., a Texas limited partnership, general partner of Lincoln PO Red Oak Village, L.P., a  
Delaware limited partnership, on behalf of said limited partnership.

[Signature]  
Notary's Signature

My Commission Expires:

06-09-11

Notary's Printed Name:

Jenny Rodgers

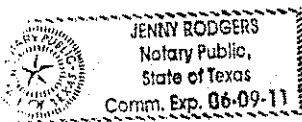


Exhibit A to Special Warranty Deed

LEGAL DESCRIPTION

TRACT NO. 1: Lots 5 and 6, "LOT 4, LOT 5 AND LOT 6, MCKINLEY PLACE", according to the map or plat thereof recorded in Volume 9, Page 186, Plat Records, Hays County, Texas.

TRACT NO. 2: Lot 2, RED OAK VILLAGE, according to the map or plat thereof recorded in Volume 13, Page 11, Plat Records, Hays County, Texas.

Exhibit B To Special Warranty Deed

PERMITTED EXCEPTIONS

Exhibit B to Special Warranty Deed

PERMITTED EXCEPTIONS

1. Restrictive covenants of record: Volume 9, Page 186, Volume 13, Page 11 and Volume 8, Page 285, Plat Records; Deed Volume 163, Page 160; Volume 1229, Page 830; Volume 1426, Page 1; Volume 2716, Page 712, corrected by Volume 2822, Page 656; Volume 2716, Page 758; Volume 2716, Page 733; Volume 2716, Page 752; Volume 2834, Page 208; Volume 2834, Page 283; Volume 2834, Page 306, Volume 3081, Page 519, corrected by Volume 3093, Page 361; and Volume 3733, Page 270, all of the Official Records, Hays County, Texas.
2. The following matters as set forth in Plat recorded in Volume 9, Page 186, Plat Records, Hays County, Texas: 10' public utility easement along McKinley Place Drive and along Interstate Highway 35; 24' and 30' wide access easement; 15' wide easement along Interstate Highway 35; Hays County, Texas, as shown on survey by George L. Sanders, RPLS# 1838, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects Tract 1, Lots 5 & 6)
3. 15' easement along Interstate Highway 35, dedicated by plat recorded in Volume 7, Page 156 (and further referenced in plat recorded in Volume 9, Page 186) both in the Plat Records of Hays County, Texas, as shown on survey by George L. Sanders, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects Tract 1, Lots 5 & 6)
4. The following matters created by the Final Plat of Red Oak Village, recorded in Volume 13, Page 11 of the Deed Records of Hays County, Texas: 15' pedestrian access and public utility easement; 20' water, wastewater and electric easement along Interstate Highway 35; 10' electric easement; 25' shared access easement; 20' wastewater easement; 15' public utility easements within Lot 2 and along Leah Avenue; 10' public utility easement along McKinley Place Drive; 5' pedestrian access and public utility easement along McKinley Place Drive and 20' public utility easement along Cottonwood Parkway; and  
  
20' wide public utility easement created by Plat of Lot A, Municipal Airport Subdivision, recorded in Volume 8, Page 285 of the Deed Records of Hays County, Texas, as shown on survey by George L. Sanders, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects Tract 2, Lot 2 and Tract 3, Lot 3)
5. Terms, provisions and conditions contained in Declaration of Covenants,

Conditions and Restrictions, dated May 24, 1996, between Mary Ann Hood, Trustee and Lowe's Home Centers, Inc. recorded on May 28, 1996, as Document #400749, Volume 1229, Page 830, as amended by First Amendment to Declaration of Covenants, Conditions and Restrictions, dated June 20, 2005, recorded on July 5, 2005, as Document #05018579, Volume 2716, Page 758, Official Public Records of Hays County, Texas. Said Declaration being further affected/modified by the following:

Acknowledgement Relating to Declaration of Covenants, Conditions and Restrictions (Discount Tire), dated June 9, 2005, by Halle Properties, L.L.C., recorded on July 5, 2005, as Document #05018576, Volume 2716, Page 725, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Declaration of Covenants, Conditions and Restrictions (Jack In The Box), dated June 28, 2005, by Engineer Business Center, LLC., recorded on July 5, 2005, as Document #05018577, Volume 2716, Page 733, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Declaration of Covenants, Conditions and Restrictions (CenturyTel), dated June 10, 2005, by CenturyTel of San Marcos, Inc., recorded on July 5, 2005, as Document #05018578, Volume 2716, Page 752, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Declaration of Covenants, Conditions and Restrictions (Shell), dated June 27, 2005, by CNL APF Partners, LP, successor by merger to USRP Funding 2002-A, L.P., recorded on July 5, 2005, as Document #05018575, Volume 2716, Page 712, and re-recorded on December 9, 2005, as Document #05035678, Volume 2822, Page 656, Official Public Records of Hays County, Texas;

Termination of Acknowledgement Relating to Declaration of Covenants, Conditions and Restrictions and Approval of Site Plan and Building Elevations (Discount Tire) dated December 23, 2005, by Halle Properties, L.L.C., recorded on December 29, 2005, as Document #05037459, Volume 2834, Page 283, Official Public Records of Hays County, Texas;

Second Amendment to Declaration of Covenants, Conditions and Restrictions between Lincoln PO Red Oak Village, L.P., Lowe's Home Centers, Inc., Halle Properties, LLC, Engineer Business Center, LLC, CNL APF Partners, LP, CenturyTel of San Marcos, Inc., Sam's Real Estate Business Trust and Texas Cinema Corporation, as evidenced by Affidavit recorded December 28, 2010, as Document Number 2010-1003544 Official Public Records of Hays County, Texas.

Noted on survey by George L. Sanders, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects all tracts)

6. Utility Easement granted to the City of San Marcos, recorded on February 25, 1976, in Volume 282, Page 84, Deed Records, Hays County, Texas; and as further shown on Plat recorded in Volume 9, Page 186, Plat Records, Hays County, Texas, as shown on survey by George L. Sanders, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects Tract 1)

7. Water/wastewater Easement granted to the City of San Marcos, recorded October 12, 1999, under Document No. 9924116, Official Public Records, Hays County, Texas; and as further shown on Plat recorded in Volume 9, Page 186, Plat Records, Hays County, Texas, as shown on survey by George L. Sanders, prepared under the supervision of Loomis Partners, dated July 16, 2010, revised December 14, 2010, last revised on December 23, 2010, Job No. 100702.T. (Affects Tract 1)

8. Terms, conditions, obligations and stipulations in Reciprocal Easement Agreement by Mary Anne Hood, Trustee and PBA Development, Inc., recorded in Volume 1426, Page 1, Official Public Records, Hays County, Texas. (All Tracts)

SAID AGREEMENT BEING FURTHER AFFECTED/MODIFIED BY THE TERMS, CONDITIONS AND STIPULATIONS OF THE FOLLOWING:

Acknowledgement Relating to Reciprocal Easement Agreement (Shell) dated June 27, 2005 by CNL APF Partners, LP, recorded July 5, 2005, as Document #05018580, Volume 2716, Page 774, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Reciprocal Easement Agreement (Discount Tire) dated June 9, 2005 by Halle Properties, L.L.C., recorded July 5, 2005, as Document #05018581, Volume 2716, Page 787, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Reciprocal Easement Agreement (Jack In The Box) dated June 28, 2005 by Engineer Business Center, LLC, recorded July 5, 2005, as Document #05018582, Volume 2716, Page 795, Official Public Records of Hays County, Texas;

Acknowledgement Relating to Reciprocal Easement Agreement (CenturyTel) dated June 10, 2005 by CenturyTel of San Marcos, Inc., recorded July 5, 2005, as Document #05018583, Volume 2716, Page 805, Official Public Records of Hays County, Texas;

First Amendment to Reciprocal Easement Agreement dated July 1, 2005, between Lincoln PO Red Oak Village, LP and Texas Cinema Corporation, recorded August



18, 2005, as Document Number 05023982, Volume 2750, Page 712, Official Public Records of Hays County, Texas; and

Termination of Acknowledgment Relating to Reciprocal Easement Agreement (Discount Tire), dated December 23, 2005, by Halle Properties, L.L.C., recorded on December 29, 2005 as Document #05037460, Volume 2834, Page 297, Official Public Records of Hays County, Texas.

9. Terms, conditions and stipulations of Easements with Covenants and Restrictions Affecting Land, dated December 23, 2005 between Sam's Real Estate Business Trust and Lincoln PO Red Oak Village, L.P., recorded December 29, 2005 in Volume 2834, Page 306, Official Public Records, Hays County, Texas; further affected by Notice of Transfer executed by Chick-Fil-A, Inc., recorded September 11, 2009, in Volume 3733, Page 287, Official Public Records, Hays County, Texas. (All Tracts)

10. Terms, conditions and stipulations of Waste Water Lift Station Declaration, by SLC 61 Joint Venture, recorded on December 3, 2001, in Volume 1913, Page 326, Official Public Records, Hays County, Texas. (Tracts 2 and 3)

11. Terms, conditions and stipulations of Restrictive Covenant and Maintenance Agreement with Easements, between Lincoln PO Red Oak Village LP and Bueno Realty, LLC, dated December 28, 2006, recorded December 29, 2006 in Volume 3081, Page 519 and rerecorded January 19, 2007, in Volume 3093, Page 361, both of the Official Public Records, Hays County, Texas. (Tracts 2 and 3)

12. Restrictive terms, conditions and stipulations contained in Special Warranty Deed, to Chick-Fil-A, Inc., recorded September 11, 2009 in Volume 3733, Page 270, Official Public Records, Hays County, Texas. (All Tracts)

13. Terms, conditions, and stipulations in Lease Agreement by and between Lincoln PO Red Oak Village, L.P. as Lessor, and Marmaxx Operating Corp. as Lessee, dated July 21, 2005, as evidenced by Memoranda of Lease recorded on September 12, 2005 in Volume 2767, Page 483, and October 11, 2005, in Volume 2785, Page 585, and rerecorded December 29, 2005, in Volume 2834, Page 224, Official Public Records, Hays County, Texas. (All Tracts)

14. Terms, conditions, and stipulations in Lease Agreement by and between Lincoln PO Red Oak Village, L.P., as Lessor, and Bed Bath & Beyond Inc. as Lessee, as evidenced by Memoranda of Lease recorded September 29, 2005 in Volume 2777, Page 412, and recorded on October 17, 2005 in Volume 2790, Page 57, both corrected on December 29, 2005, in Volume 2834, Page 235, Official Public Records, Hays County, Texas. (All Tracts)

15. Terms, conditions and stipulations in Lease Agreement by and between Lincoln PO Red Oak Village, LP., as Lessor, and Ross Dress For Less, Inc., as Lessee, as evidenced by Memorandum of Lease recorded April 12, 2006 in Volume 2901, Page 793, Official Public Records of Hays County, Texas. (All Tracts)
16. Terms, conditions and stipulations in Lease Agreement by and between Lincoln PO Red Oak Village, LP., as Lessor, and PetsMart, Inc., as Lessee, as evidenced by Memorandum of Lease recorded December 15, 2006 in Volume 3072, Page 220, Official Public Records, Hays County, Texas. (All Tracts)
17. Terms, conditions and stipulations in Lease Agreement by and between Lincoln PO Red Oak Village, LP., as Lessor, and Best Buy Stores LP., as Lessee, as evidenced in Memorandum of Lease Agreement recorded July 18, 2007 in Volume 3211, Page 2, Official Public Records, Hays County, Texas. (All Tracts)
18. Terms, conditions and stipulations in Ground Lease by and between Lincoln PO Red Oak Village, LP., as Lessor, and Carl Karcher Enterprises, Inc., as Lessee, as evidenced by Memorandum of Lease recorded October 23, 2008, in Volume 3508, Page 530, Official Public Records, Hays County, Texas. (All Tracts)
19. Inclusion within the Upper San Marcos Watershed District; being evidenced by Hays County Central Appraisal District property detail sheet(s) for subject property herein. (All Tracts)
20. Inclusion within the Edwards Underground Water District; being evidenced by Hays County Central Appraisal District property detail sheet(s) for subject property herein. (All Tracts)
21. All leases, grants, exceptions or reservation of coal, lignite, oil, gas and other mineral, together with all rights, privileges, and immunities relating thereto appearing in the public records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed (All Tracts)
22. Rights of the following parties as tenants only under unrecorded leases: Dollar Tree, B&P Nails Spa, Mattress Firm, and U.S. Government-Military, US Recruiting Office/Armed Forces Career Center.